

### **DETAILED ACTION**

#### **Status of Objections and Rejections**

1. Amendment filed in the paper of 9/10/2008 is entered.
2. Objection to claim 13 is withdrawn in light of claim amendment filed in the paper of 9/10/2008.
3. Rejection of claims 1-5, 7, 9 and 11-14 under 35 U.S.C. 112, first paragraph has been withdrawn in light of claim amendment filed in the paper of 9/10/2008.
4. Rejection of claims 1-5, 7, 9, 11-13 and 14 under 35 U.S.C. 103(a) has been withdrawn in light of persuasive arguments filed in the paper of 9/10/2008 and examiner's amendment as set forth below:

#### **EXAMINER'S AMENDMENT**

5. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Steve Lendaris on September 18, 2008.

In the claims:

Claims 7 and 12 have been canceled.

Claim 13 (amended) The method of claim 1, wherein the selection of the maize plant in step (d) comprises: producing calluses from immature F1 embryos obtained

from the F1 generation, visually selecting the calluses containing the ancillary selection marker, multiplying calluses and selecting sectors of excision of the ancillary selection marker coding sequence[, and regenerating F 1 maize plants from the selected sectors of excision].

Claim 14 (amended) The method as claimed in claim 13, wherein regenerating maize plants from the maize plant, or cell from the maize plant, selected in (d) comprises culturing selected calluses of immature embryos of F1 [ears] generation under conditions that allow regeneration of maize plants.

Applicant authorized Examiner's Amendment to cancel claims 7 and 12, and further authorized to amend claims 13 and 14.

***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinod Kumar whose telephone number is (571) 272-4445.

The examiner can normally be reached on 8:30 a.m. to 5:00 pm.  
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached on (571) 272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Phuong T. Bui/

Primary Examiner, Art Unit 1638